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Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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APR - 1996

In the Matter of )  
 )  
Petition for Declaratory Ruling ) RM-8181  
by the Inmate Calling Services )  
Providers Task Force )

**OPPOSITION**

MCI Telecommunications Corporation (MCI) hereby opposes the Petition for Waiver (Petition) filed by Pacific Bell and Nevada Bell (Pacific) in which Pacific is seeking waiver of the Commission's Declaratory Ruling<sup>1</sup> deregulating inmate-only payphone equipment.

As demonstrated below, Pacific's Petition is without merit and, therefore, must be denied.

Pacific argues that compliance with the Commission's Declaratory Ruling will not be in the public interest in light of the Telecommunications Act of 1996 (the Act). Specifically, it contends that the Declaratory Ruling is inconsistent with the Act which requires that the FCC conduct a comprehensive payphone rulemaking that will address regulations concerning inmate telephone service.

Pacific also argues that the Declaratory Ruling is contrary to the Act because it requires carriers to file revisions to their Cost Allocation Manuals on or about July 3, 1996, and the Act states that the Commission shall permit carriers to file cost allocation manuals annually. Pacific thus contends that the Commission's Declaratory Ruling needs to be revised to be consistent with the requirement of the Act regarding annual CAM filings.

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<sup>1</sup> In the Matter of Petition for Declaratory Ruling by the Inmate Calling Services Providers Task Force, Declaratory Ruling, RM-8181 (rel. February 20, 1996). (Declaratory Ruling).

The Commission may grant waivers when there are special circumstances that warrant a deviation from the general rule; a waiver will not undermine Commission policy; and it will serve the public interest.<sup>2</sup> Pacific has not demonstrated any special circumstances that would justify a grant of waiver here. Clearly, passage of the Act is inadequate grounds because the Commission's Declaratory Ruling was released after its enactment. Moreover, a grant of waiver would not serve the public interest because it would allow local exchange carriers to continue to subsidize inmate payphone equipment with charges imposed on ratepayers, to the detriment of ratepayers and competitive providers of inmate services. Accordingly, the Petition must be denied.

If, however, the Commission were to grant the waiver, it should direct that Pacific keep track of its inmate payphone investment and related expenses from September 2, 1996, until it is reclassified as a nonregulated activity, and refund such amounts to interstate ratepayers.

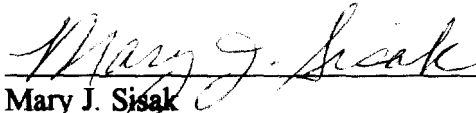
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<sup>2</sup> See, Wait Radio v. FCC, 418 F.2d 1153 (D.C. Cir. 1969).

Based on the foregoing, MCI respectfully requests that the Commission deny the Petition or issue an order as discussed herein.

Respectfully submitted,

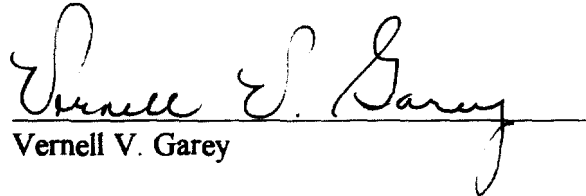
MCI TELECOMMUNICATIONS CORPORATION

By:   
Mary J. Sisak  
Donald J. Elardo  
1801 Pennsylvania Avenue, N.W.  
Washington, D.C. 20006  
(202) 887-2605

Dated: April 1, 1996

**CERTIFICATE OF SERVICE**

I, Vernell V. Garey, do hereby certify that copies of the foregoing "OPPOSITION" in File No. RM-8181 were mailed first-class, postage-prepaid, to the following on this 1st day of April, 1996.

  
Vernell V. Garey

Albert F. Kramer  
Helen M. Hall  
KECK, MAHIN & CATE  
Attorneys for the Inmate  
Calling Services Providers Task Force  
1201 New York Avenue, N.W.  
Washington, D.C. 20005-3919

Floyd S. Keene  
Michael S. Pabian  
Ameritech Operating Companies  
2000 West Ameritech Center Dr.  
Room 4H76  
Hoffman Estates, IL 60196-1025

Robert McKenna  
U.S. West Communications, Inc.  
1020 19th Street, N.W., Suite 700  
Washington, D.C. 20036

Eugene J. Baldrate  
Director-Federal Regulatory  
Southern New England Telephone  
227 Church Street  
New Haven, CT 06510

James P. Tuthill  
Maribeth R. Evans  
Pacific Bell/Nevada Bell  
2600 Camino Ramon, Room 2W802  
San Ramon, CA 94583

ITS  
1919 M Street, N.W.  
Room 246  
Washington, D.C. 20036

Robert M. Lynch  
Durward D. Dupre  
J. Paul Walters, Jr.  
Southwestern Bell Telephone Company  
One Bell Center, Room 3520  
St. Louis, MO 63101

William J. Balcerski  
NYNEX  
120 Bloomingdale Road  
White Plains, NY 10605

William B. Barfield  
Thompson T. Rawls III  
BellSouth Telecommunications, Inc.  
1155 Peachtree Street, N.E.  
Suite 1800  
Atlanta, GA 30367-6000

**Lucille M. Mates  
Sarah Rubenstein  
Polly Brophy  
Pacific Bell/Nevada Bell  
140 New Montgomery Street  
Room 1522A  
San Francisco, CA 94105**

**Rudolph J. May  
Sutherland, Asbill & Brennan  
Attorney for Capital Network  
System, Inc. and Advanced  
Technologies Cellular  
Telecommunications  
1275 Pennsylvania Avenue, N.W.  
Washington, D.C. 20004-2404**

**Linda Kent  
Associate General Counsel  
USTA  
1401 H Street, N.W., Suite 600  
Washington, D.C. 20005-2136**